

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
March 23, 2010

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Apostle Perry Maples from Apostolic Deliverance Temple. Councilman Lowery presented Apostle Maples with a certificate naming him Chaplain of day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

(Councilman Strickland made a motion to pull Item #25(Ord. #5345) from the Minutes of March 9, 2010 for reconsideration)

(Special Item #1)

MOTION: Strickland
SECOND: Flinn
AYES: Boyd, Conrad, Flinn, Hedgepeth, Lowery, Morrison, Strickland and Chairman Collins

NAYS: Brown, Ford, Fullilove, Halbert and Ware

APPROVED

Approval of the Minutes of the regular meeting of March 9, 2010 with the following motion:

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED, as amended (Item#25 – Ord. #5345 was pulled)

5. **.RESOLUTION APPROVING A HOTEL WAIVER FOR SUN INN LOCATED AT 1543 ELVIS PRESLEY BOULEVARD. (HELD FROM 3/9)**

Case No. HMW 10-01

Held until April 13, 2010

8. **ORDINANCE REZONING THE NORTHWEST CORNER OF NORTH BELLEVUE AND SMITH AVENUE, CONTAINING 0.26 (11,325.60 SQ. FT.) IN THE LOCAL COMMERCIAL (C-L) DISTRICT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 1/26; 2/23)**

Ordinance No. 5342

Case No. Z 09-107

Held until April 27, 2010

20. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 4159, EXTENDING THE FRANCHISE ORDINANCE AS AMENDED, UP FOR T H I R D AND F I N A L READING. (HELD FROM 12/1; 12/15; 1/26; 2/23)**

Ordinance No. 5331

Held until May 25, 2010

22. **REFERENDUM ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) SO AS TO REPEAL THE PROCEDURE STAGGERED TERMS AND TO PROVIDE FOR THE ELECTION OF THE MEMPHIS CITY COUNCIL, OFFICE OF THE MAYOR AND CITY COURT CLERK, TO FOUR-YEAR TERMS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5347

Held until April 13, 2010

1. **RESOLUTION HONORING STAN BELL FOR HIS GOOD WORKS AND POSITIVE IMPACT IN THE COMMUNITY. (HELD FROM 3/9)**

MOTION: Ford
SECOND: Fullilove

APPROVED, unanimous voice vote

2. **RESOLUTION DECLARING APRIL 4-10, “THINK BEFORE YOU ACT NON VIOLENCE WEEK IN MEMORY OF DR. MARTIN LUTHER KING, JR.”**

MOTION: Lowery
SECOND: Ware

APPROVED, unanimous voice vote

3. **RESOLUTION CONGRATULATING THE HUMES PREPARATORY MIDDLE SCHOOL BOYS BASKETBALL TEAM ON THEIR WIN AS 2010 SMALL DIVISION CITY CHAMPIONS.**

MOTION: Fullilove
SECOND: Ford

APPROVED, unanimous voice vote

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHWEST CORNER OF AIRWAYS BOULEVARD AND MEMPHIS DEPOT PARKWAY, CONTAINING 11.02 ACRES IN AN AREA CURRENTLY GOVERNED BY MEMPHIS DEPOT BUSINESS PARK PLANNED DEVELOPMENT (P.D. 04-378).**

Case No. PD 10-301

Applicant: Depot Redevelopment Corporation
SR Consulting, LLC - Representative

Request: Plan amendment to add a parcel for a new Area ‘A-3’ to allow office use; increase the Common Open Space in Area ‘B-3’ for future detention; including the location of a pump house in Area ‘C-2’ of the Outline Plan

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford
SECOND: Strickland

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

6. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE SOUTHWEST CORNER OF TRINITY ROAD AND SANGA ROAD, CONTAINING 0.83 ACRE IN THE NEIGHBORHOOD COMMERCIAL (C-N) DISTRICT.**

Case No. UV 10-04

Applicant: TV6-W, LLC – Billy Orgel

Request: Cell Tower, 160 feet in height (Flush Mount Antennae)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Strickland

AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins
Flinn recused

APPROVED

7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHEAST CORNER OF RIVERDALE ROAD AND HOLMES ROAD, CONTAINING 1.6 ACRE IN THE PLANNED COMMERCIAL (P-C) DISTRICT.**

Case No. SUP 10-204cc

Applicant: Tower Ventures V
Prime Dev. Group. Inc. – Michael J. Fahy- Representative

Request: Cell Tower, 160 ft. monopole, slick-stick design

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Ware

AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
Flinn recused
Lowery did not cast a vote

APPROVED

28. RESOLUTION APPROVING THE DEMOLITION OF THE ARENA BUILDING.

Chairman Collins recognized the following person from the audience:

Hunter Daniel, 3721 South Gallaway, Memphis, TN. 38111

MOTION: Hedgepeth

SECOND: Ford

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED**29. RESOLUTION REQUESTING TO ESTABLISH THE CIP PROJECT NUMBER CD01085 – FAIRGROUNDS PUBLIC GREEN SPACE PROJECT, PHASE I AND TO AMEND THE FISCAL YEAR 2010 CIP BUDGET BY AND RE-ALLOCATING AND APPROPRIATING \$606,210.00 FROM PROJECT NUMBER PK10010 TO PROJECT NUMBER CD 01085.**

Chairman Collins recognized the following people from the audience:

Jim Beaty, 1631 E. Clanlo Dr., Memphis, TN. 38104

Hunter Daniel, 3721 South Gallaway, Memphis, TN. 38111

MOTION: Hedgepeth

SECOND: Ware

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED**CONSENT AGENDA – Items 9 - 14 may be acted upon by one motion: SEE PAGE 1432 FOR ROLL CALL****9. ORDINANCE AMENDING CITY OF MEMPHIS CODE OF ORDINANCES, SECTION 20-28, RELATIVE TO PANHANDLING, UP FOR S E C O N D READING.**

Ordinance No. 5348

APPROVED, on Second reading

10. ORDINANCE TO CREATE THE CITY OF MEMPHIS ALCOHOL IMPACT AREA, UP FOR S E C O N D READING.

Ordinance No. 5349

APPROVED, on Second reading

11. **ORDINANCE REZONING THE NORTHWEST SIDE OF S. THIRD STREET; +/-191.93 FEET NORTHEAST OF W. HOLMES ROAD, CONTAINING 1.21 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) AND HIGHWAY COMMERCIAL (C-H) DISTRICTS, UP FOR S E C O N D READING.**

Ordinance No. 5350
Case No. Z 10-101

APPROVED, on Second reading

12. **RESOLUTION ACCEPTING HACKS BILL MORRIS PARKWAY, P.D., AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 05-313cc
(Contract No. CR-5097)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located at the southeast corner of Hacks Cross Road and Bill Morris Parkway. The standard improvement contract was approved on October 16, 2007. Resolution also authorizes the release of the performance bond in the amount of \$200,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

13. **NOTATION FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASE WAS HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 10-303 – Kirby Gate South P.D., 4th Amendment
- B. Case No. PD 10-304 – Memphis Drum Shop P.D.

Public Hearing Set for April 13, 2010

14. **RESOLUTION RECOGNIZING THE “SPIRIT OF MEMPHIS” CELEBRATION AND ACTIVITIES.**

APPROVED

ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
Ford, Fullilove and Lowery did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 15 - 19 may be acted upon by one motion:

15. **RESOLUTION APPROVING CHANGE NO. 7 TO CONTRACT NO. 9955, PARTIAL FUNDING OF POLLUTION CONTROL, GROUND WATER QUALITY CONTROL PROGRAM, WITH MEMPHIS & SHELBY COUNTY HEALTH DEPARTMENT IN THE FUNDED AMOUNT OF \$140,267.60. (THIS CHANGE RENEWS THE CONTRACT FOR 2010 AND INCLUDES A DECREASE IN METERS FROM THE PREVIOUS YEAR).**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11279, THIRD PARTY ADMINISTRATOR FOR WORKER'S COMPENSATION, WITH BRENTWOOD SERVICES ADMINISTRATORS, INC. IN THE FUNDED AMOUNT OF \$130,000.00. (THIS CHANGE RENEWS THE CONTRACT FOR THE FIRST OF SIX RENEWAL TERMS, JANUARY 1, 2010 TO DECEMBER 31, 2010, WITH NO INCREASE IN RATES).**

APPROVED

17. **RESOLUTION AWARDDING CONTRACT TO UNION METAL CORPORATION FOR GALVANIZED STEEL EXPRESSWAY POLES IN THE AMOUNT OF \$51,900.00.**

APPROVED

18. **RESOLUTION AWARDDING 12-MONTH CONTRACT TO POLYPIPE, INC. FOR POLYETHYLENE PIPE IN THE AMOUNT OF \$183,211.34.**

APPROVED

19. **RESOLUTION AWARDDING CONTRACT TO LOGICALIS, INC. FOR MAINTENANCE AND SUPPORT OF BINDVIEW SOFTWARE IN THE AMOUNT OF \$36,055.88.**

APPROVED**MLGW ROLL CALL CONSENT ITEMS**

MOTION: Fullilove
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Hedgepeth did not cast a vote

APPROVED

21. **ORDINANCE AMENDING CHAPTER 2 CODE OF ORDINANCES, CITY OF MEMPHIS, TO AMEND CERTAIN SECTIONS OF 2-291 RELATING TO REAL PROPERTY, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5346

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

23. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF ONE HUNDRED TWENTY THOUSAND DOLLARS, (\$120,000.00) FROM THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION FOR VIA TITLE ONE CAREER READINESS GRANT. RESOLUTION ALSO AMENDS THE FY 2010 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS.**

MOTION: Conrad
SECOND: Morrison
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

24. **RESOLUTION APPROPRIATING \$143,452.00 FUNDED BY G.O. BONDS GENERAL (STORM WATER) FOR LENOX DRAINAGE DISTRICT, PROJECT NUMBER ST03026 FOR A CONSTRUCTION CONTRACT WITH MADDEN PHILLIPS CONSTRUCTION, INC.**

MOTION: Hedgepeth
SECOND: Morrison
AYES: Brown, Conrad, Flinn, Ford, Halbert, Lowery, Morrison, Strickland, Ware and Chairman Collins
Boyd, Fullilove and Hedgepeth did not cast a vote

APPROVED

25. **RESOLUTION REQUESTING IMMEDIATE REINSTATEMENT OF MEMPHIS POLICE OFFICERS TO CITY HALL SECURITY.**

MOTION: Brown
SECOND: Ford
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins

Conrad and Morrison did not cast a vote

APPROVED

26. RESOLUTION EXPRESSING THE COUNCIL'S SUPPORT TO THE TENNESSEE HOSPITAL ASSOCIATION FOR ITS PROPOSED HOSPITAL COVERAGE FEE.

MOTION: Ware
SECOND: Fullilove
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Halbert, Lowery, Morrison, Ware and Chairman Collins
Conrad and Strickland abstained
Hedgepeth did not cast a vote

APPROVED

27. RESOLUTION ACCEPTING AN OFFER TO PURCHASE CITY OWNED PROPERTY LOCATED ADJACENT TO 960 SOUTH THIRD STREET.

Held until April 13, 2010

(Continuation of Special Item #1 – Councilman Strickland's motion to reconsider item #25 – Ord. #5345 from the Minutes of 3/09/2010 Meeting. Councilman Strickland's motion for reconsideration PASSED).

(Councilman Flinn offered a Friendly Amendment to the language of Ord. #5345, by removing the words "rather than within the boundaries of the City of Memphis", without objection. However, Councilwoman Ware objected to this Friendly Amendment and a vote had to be taken).

(Special Item #2 – Flinn's Friendly Amendment)

MOTION: Flinn
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Hedgepeth, Lowery, Morrison, Strickland and Ware
NAYS: Brown, Ford, Fullilove, Halbert and Chairman Collins

(Special Item #2 was APPROVED)

(Chairman Collins offered an attachment to Ordinance #5345 by adding to the language that persons who apply for employment with the City, after the effective date of this Referendum Ordinance, who reside outside the boundaries of the City, but within Shelby County, must contractually agree to pay an Annual fee, equal to the tax equivalent to the City's tax rate, on the average assessed value of all taxable residential property in the City, for as long as each person resides outside the City of Memphis. Said fees paid to the City by such employee, shall be reimbursed if such employee moves into the City of Memphis, within 6 months of his or her employment).

(Special Item #3 – Chairman Collins motion)

MOTION: Collins
SECOND: Fullilove
AYES: Brown, Ford, Fullilove, Ware and Chairman Collins
NAYS: Boyd, Conrad, Flinn, Halbert, Hedgepeth, Lowery, Morrison and Strickland

(Special Item #3 – FAILED)

(Councilman Ford made a motion that if this Ordinance Failed, it will not be put on the ballot for 5 years).

(MAIN MOTION – Item #25 from the Minutes of 3/09/2010 Meeting – Special Item #4)

REFERENDUM ORDINANCE AMENDING ARTICLE 27, SECTION 190 OF THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE HOME RULE AMENDMENT SO AS TO REQUIRE ALL PERSONS EMPLOYED BY THE CITY OF MEMPHIS, TO LIVE WITHIN SHELBY COUNTY, TENNESSEE, UP FOR T H I R D AND F I N A L READING.

Ordinance No. 5345

MOTION: Lowery
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Hedgepeth, Lowery, Morrison and Strickland
NAYS: Brown, Ford, Fullilove, Halbert, Ware and Chairman Collins

APPROVED, as amended

(Councilman Ford made a motion to approve Same Night Minutes on Items #16, #26, #28 & #29 from tonight's meeting)

(Special Item #5)

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following people who spoke from the audience:

Nadolyn Smith, 3597 Bellwood Dr., Memphis, TN. 38128

Cheronda Thompson, 133 N. Oak Grove Rd., Memphis, TN. 38133
Walter Broady, III, 4256 Ledbetter Cove, Memphis, TN. 38109

ADJOURNED MEETING AT 6:00 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records